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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,987	03/05/2002	George Kramerich	47276-00014USPT	2871

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EXAMINER

SHAW, PELING ANDY

ART UNIT PAPER NUMBER

2144

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/936,987	<b>Applicant(s)</b> KRAMERICH ET AL.	
	<b>Examiner</b> Peling A. Shaw	<b>Art Unit</b> 2144	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*pas*

### DETAILED ACTION

1. Amendment received on 05/08/2006 has been entered into record. Claims 1, 3, 16 and 26 are amended. Claims 1 and 3-26 are currently pending.

#### *Priority*

2. This application is a 371 of PCT/US00/07001 filed on 03/17/2000 which claims the benefit of 60/125,451 filed on 03/19/1999. The filing date is 03/05/2002.

#### *Claim Rejections - 35 USC § 112, second paragraph*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-11 and 15 are rejected under 35 U.S.C. 112, second paragraph as following:

- a. Claims 9-11 recite the limitation of "... the processors further ...". There is insufficient antecedent basis for this limitation in the claim. For the purpose of applying art, the claims are read as "The system of claim 4, the processing further ...".
- b. Claim 15 recites the limitation of "... pedestrian count data ...". There is insufficient antecedent basis for this limitation in the claim. For the purpose of applying art, the claims are read as "... pedestrian traffic data ...".

Appropriate correction is required.

#### *Claim Rejections - 35 USC § 112, first paragraph*

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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Claims 16-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the original specification and claims in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

- a. Claim 16 recites the limitation of “A system for monitoring and scoring pedestrian traffic ...” that is not found in the original specification or claims. It is not clear what the limitation mean. It would require undue experimentation for one of ordinary skill in the networking art at the time the invention was made to be able to add and test all these functions inclusively rather than just pick a particular function for implementation. Claim 16, and its depending claims 17-25 are thus objected. For the purpose of applying art, claim 16 is read as “A system for monitoring and storing pedestrian traffic ...”.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-8, 12-19 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable

Conrad et al. (US 5465115 A), hereinafter referred as Conrad, in view of Fox et al. (US

5832456 A), hereinafter referred as Fox, and Sneeringer (US 6618709 B1), hereinafter referred as Sneeringer.

- a. Conrad shows (claim 1) a pedestrian traffic monitoring system (column 2, lines 35-39: pedestrian traffic monitoring) system comprising: a plurality of traffic monitors at a plurality of provider sites (column 2, lines 35-39: pedestrian traffic monitoring at retail); a server connected to said traffic monitors to receive traffic data from said traffic monitors (column 4, lines 55-63: a computer is connected to video imager to receive counting data); a traffic database for storing said pedestrian traffic data (column 4, lines 55-63: a computer is connected to video imager to receive counting data); displaying pedestrian traffic count (column 3, lines 14-25); a data communications connection through which users may access said database for transferring data among the traffic database. Conrad does not show indexing pedestrian traffic data; at least one database for storing non-traffic related data; a view creator for generating national retail traffic index data by processing data stored in the traffic database and the at least one database for storing non-traffic related data, wherein the traffic index data includes a plurality of metrics with each metric related to the plurality of provider sites and based upon both the pedestrian traffic data and non-traffic data; a national retail traffic data mart for storing the national retail traffic index data; a data communications connection for transferring data among the traffic database, the at least one database for storing non-traffic related data, the view creator, the national retail traffic index database and the server wherein a user can access the national traffic index data mart via the data communications connection.

- b. Fox shows indexing pedestrian traffic data (column 3, lines 7-21: MIS, store traffic); at least one database for storing non-traffic related data (column 3, lines 7-21: MIS, labor data); a view creator for generating national retail traffic index data by processing data stored in the traffic database and the at least one database for storing non-traffic related data, wherein the traffic index data includes a plurality of metrics with each metric related to the plurality of provider sites and based upon both the pedestrian traffic data and non-traffic data (column 8, lines 46-56: retail performance per stores, to include forecast weather data); a national retail traffic data mart for storing the national retail traffic index data (Fig. 3; column 2, lines 42-61: external and industry data) in an analogous art for the purpose of weather adapted business performance forecasting.
- c. Sneeringer shows a data communications connection for transferring and accessing database (column 26, line 66-column 67, line 10: database query via secured page access) in an analogous art for the purpose of web-based monitoring of energy related usage, and client accessibility therefor.
- d. It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify Conrad's functions of video traffic monitor for retail with Fox's functions of viewing and forecasting business performance and Sneeringer's functions of web-based monitoring and database accessing.
- e. The modification would have been obvious because one of ordinary skill in the art would have been motivated to extend Conrad's functions of video traffic monitor for retail to storing and remote accessing the collected data per Fox (abstract) and

Sneeringer's teaching for management purpose per Conrad (column 1, lines 17-27),  
Fox (abstract) and Sneeringer (abstract)'s teaching.

- f. Regarding claim 4, Fox shows wherein the at least one database for storing non-traffic related data comprises: a demographic database for storing census demographic (column 10, lines 40-47: demographic data); a profiles database for storing site profiles and corporate profiles, wherein the site profiles are associated to the plurality of provider sites, and wherein the corporate profiles are associated to a plurality of corporations (column 10, lines 40-47: point of sale data); and a customer database for storing sales data (column 10, lines 40-47: order data).
- g. Regarding claim 6, Fox shows wherein labor data is stored in the corporate profiles; and wherein the view creator further generates national retail traffic index data by processing the sales data in the customer database, the labor data in the profiles data and the pedestrian traffic data in the traffic database (Fig. 3; column 2, lines 42-61: labor data, store traffic; column 10, lines 40-47: order data).
- h. Regarding claim 8, Conrad shows wherein the plurality of traffic monitors comprises a plurality of video cameras (column 2, lines 35-39: video imaging).
- i. Claims 3, 5 and 7 are of the same scope as claims 1, 4 and 6. They are rejected for the same reasons as for claims 1, 4 and 6.
- j. Regarding claim 12, Sneeringer shows further comprising at least one hub, the at least one hub connecting the plurality of traffic monitors at each of the plurality of provider sites (column 28, lines 30-35: hub).

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- k. Regarding claim 13, Sneeringer shows wherein the traffic monitors are connected to the server via the Internet (column 28, lines 30-35: Internet).
- l. Regarding claim 14, Sneeringer shows wherein the traffic monitors are connected to the server via a virtual private network (column 33, lines 26-37).
- m. Claim 15 is of the same scope as claim 14. It is rejected for the same reasons as for claim 14.
- n. Claims 16-19 and 23-26 are of the same scope as claims 1, 4, 6, 8 and 12-14. These are rejected for the same reasons as for claims 1, 4, 6, 8 and 12-14.

Together Conrad, Fox and Sneeringer disclosed all limitations of claims 1, 3-8, 12-19 and 23-26. Claims 1, 3-8, 12-19 and 23-26 are rejected under 35 U.S.C. 103(a).

6. Claims 9-11 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable Conrad et al. (US 5465115 A), hereinafter referred as Conrad, in view of Fox et al. (US 5832456 A), hereinafter referred as Fox, Sneeringer (US 6618709 B1), hereinafter referred as Sneeringer, and Jannarone (US 6216119 B1), hereinafter referred as Jannarone.

- a. Conrad, Fox and Sneeringer show claims 1, 4 and 16-17 as above. None of Conrad, Fox and Sneeringer shows (claim 9) wherein the processors further edit the traffic data for usability prior to using for the computation of indexes.
- b. Jannarone shows (claim 9) wherein the processors further edit the traffic data for usability prior to using for the computation of indexes (column 3, lines 57-62: supply imputed feature value) multi-kernel neural network concurrent learning, monitoring, and forecasting system.



- c. It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify Conrad's functions of video traffic monitor for retail with Fox's functions of viewing and forecasting business performance, Sneeringer's functions of web-based monitoring and database accessing and Jannarone's functions of supply imputed feature values.
- d. The modification would have been obvious because one of ordinary skill in the art would have been motivated to extend Conrad's functions of video traffic monitor for retail to storing and remote accessing the collected data per Fox (abstract) and Sneeringer's teaching, and Jannarone's functions of supply imputed feature values for management purpose per Conrad (column 1, lines 17-27), Fox (abstract), Sneeringer (abstract) and Jannarone (column 1, lines 6-11)'s teaching.
- e. Regarding claim 10, Jannarone shows wherein the processors further recognize missing data and perform computation to replace the missing data (column 3, lines 57-62: supply imputed feature value for missing measured input value),
- f. Regarding claim 11, Jannarone shows wherein the processors further detect outliers in the traffic data and make adjustments therefore (column 3, lines 57-62: supply imputed feature value for out-of-tolerance measured input value).
- g. Claims 20-22 are of the same scope as claims 9-11. These are rejected for the same reasons as for claims 9-11.

Together Conrad, Fox, Sneeringer and Jannarone disclosed all limitations of claims 9-11 and 20-22. Claims 9-11 and 20-22 are rejected under 35 U.S.C. 103(a).

*Response to Arguments*

7. Applicant's arguments dated 05/08/2006 with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection.
- a. Examiner has performed additional search on the previous indicated allowable subject matter. Several new prior arts are identified. Thus the previous statement on allowable subject matter is reversed. Please see the following rejection sections for the application of newly found prior arts to the previous indicated subject matter with respect to the claimed invention.
  - b. In response to applicant's remarks on the generation of national retail traffic index data provides a useful tool, Fox and Jannarone have shown above in the rejection section, the tool and applications of collecting, processing, analyzing and viewing retail or similar application data as recited in the above rejection sections.
  - c. The above rejection sections have been substantially updated to recite new references in covering claimed invention. These include many references to Fox and newly identified prior arts, i.e. Sneeringer and Jannarone. It is examiner's believe that the combinatory of Conrad, Fox, Sneeringer and Jannarone have covered all the limitations of current amended claims.

***Remarks***

8. The following pertaining arts are discovered and not used in this office action. Office reserves the right to use these arts in later actions.

- a. Dedrick (US 5696965 A) Electronic information appraisal agent
- b. Miura (US 5485347 A) Riding situation guiding management system
- c. Montero (US 6133912 A) Method of delivering information over a communication network
- d. Pednault (US 6810368 B1) Mechanism for constructing predictive models that allow inputs to have missing values
- e. Mathur et al. (US 5404306 A) Vehicular traffic monitoring system

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*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to the enclosed PTO-892 for details.

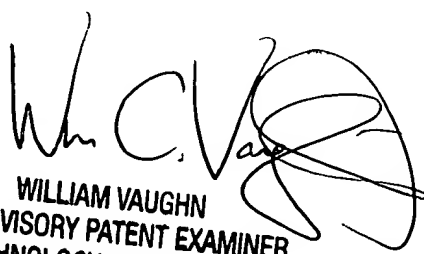
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peling A. Shaw whose telephone number is (571) 272-7968. The examiner can normally be reached on M-F 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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